


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

2009 OCT -6 AM 9:41  
CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY

JAIME CORTEZ,

Plaintiff,

-vs-

Case No. A-09-CA-642-SS

TOLTECA ENTERPRISES, INC. d/b/a Phoenix  
Recovery Group,

Defendant.

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**ORDER**

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically the plaintiff's motion to dismiss the defendant's counterclaim and the responses and sur-response, and thereafter, enters the following:

IT IS ORDERED that the motion to dismiss the defendant's counterclaim is DENIED. Plaintiff Jaime Cortez can take the position at any time that his pleaded causes of action pursuant to a specific statute does not permit liability to a defendant's plea for attorney's fees. However, the Federal Rules of Civil Procedure expressly permit attorney's fees for violations of Rule 11, and that is sufficient basis in and of itself to allege a counterclaim or to make a claim for attorney's fees and/or sanctions at any time during the pendency of a lawsuit.

SIGNED this the 5<sup>th</sup> day of October 2009.

  
UNITED STATES DISTRICT JUDGE